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MS150957.01/MSFTP131US**REMARKS**

Claims 1-67 are currently pending in the subject application and are presently under consideration. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

**I. Rejection of Claims 1-11, 24, 25, 27-36, 38-49, 51-57 and 59-66 Under 35 U.S.C §102(a)**

Claims 1-11, 24, 25, 27-36, 38-49, 51-57 and 59-66 stand rejected under 35 U.S.C §102(a) as being anticipated by Ellis *et al.* (WO 00/04709). Applicants' representative respectfully requests that this rejection be withdrawn for at least the following reasons. Ellis *et al.* fails to disclose all limitations of the subject claims.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every limitation* set forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). *The identical invention must be shown in as complete detail as is contained in the ... claim.* *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (emphasis added).

The claimed invention relates to a system for providing program criteria to facilitate recording of a specific audio and/or visual program. In particular, independent claims 1, 24, 30 and 32 recite similar limitations, namely *a server computer storing a plurality of tokens, each token having a system unique identifier for identifying a predetermined at least one of an audio and visual program, wherein the server is programmed to provide at least one token to a remote computer based on received selection criteria.* Ellis *et al.* is silent regarding such novel aspects of the claimed invention.

Ellis *et al.* relates to a system that allows a user of a remote computer to effectuate changes to local interactive television program guide equipment by submitting a request to a programming guide server. The server processes the request and updates the local interactive television program guide equipment. This provides the user the capability of setting user preferences such as parental controls, recording, etc.

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In the Final Office Action (dated February 10, 2005), the Examiner contends that Ellis *et al.* teaches the claimed limitation of *a server programmed to provide at least one token to a remote computer based on received selection criteria*. However, the cited reference instead allows for a remote program guide access device (e.g. remote computer) to submit a request (*i.e.* parental control settings update) to a program guide server which then sends the necessary update information to *a users' television equipment*. See page 13, lines 21-32. Nowhere does Ellis *et al.* teach or suggest that the server provides program identification information to *a remote computer based on received selection criteria*, let alone providing the remote computer with the programming identification information in the form of *a token having a system unique identifier*, as claimed. For example, the claimed invention allows a user of the remote computer to submit programming selection criteria to a main television server. The server then provides the remote computer with a system unique identifying token (that is associated with a specific media program). The user of the remote computer provides this token to a recording device associated with a television to facilitate automatic programming of the audio and/or visual program associated with the token to record the audio and/or visual program. Ellis *et al.* does not allow for such novel functionality as is afforded by the claimed invention.

*Independent claims 40, 42, 44, 46, 51 and 59*

The subject independent claims recite similar limitations, namely *a server operable to receive a token having data identifying at least one of a user and the recording system and identifying at least one of an audio and visual program, the server being operable to communicate program data, based on the token, to a programmable recording system*. Ellis *et al.* fails to disclose such novel features of the subject claims. Instead, the cited reference simply provides for transmitting program guide information amongst a remote program guide access device, television distribution facility, user television equipment and a program guide server based on a user request.

As an example, the claimed invention employs a server that contains program information with respect to a plurality of media programs. When the server receives identification information with respect to each media program in the form of a token, the token itself provides the information needed to facilitate the transmission of the proper program data to a recording system to achieve recording of the audio and/or visual program identified by the

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token. Thus, the claimed invention provides a recording system with program data *based on a token*, while the cited reference is limited to providing a recording system with program data based on a user request.

The Examiner is reminded that the standard by which anticipation is to be measured is *strict identity* between the cited document and the invention as claimed, not mere equivalence or similarity. See, *Richardson* at 9 USPQ2d 1913, 1920. Since *Ellis et al.* fails in this regard, withdrawal of this rejection with respect to independent claims 1, 24, 30, 32, 40, 42, 44, 46, 51 and 59 (and the claims that depend there from), is respectfully requested.

## **II. Rejection of Claims 15-21, 50, 58 and 67 Under 35 U.S.C §103(a)**

Claims 15-21, 50, 58 and 67 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Ellis et al.*. Withdrawal of this rejection is requested for at least the following reasons. The subject claims either directly or indirectly recite *a token having a system unique identifier for identifying a predetermined at least one of an audio and visual program*, and as previously discussed, *Ellis et al.* fails to teach or suggest such novel features of the subject claims. Thus, this rejection should be withdrawn.

## **III. Rejection of Claims 12-14, 22-23, 26 and 37 Under 35 U.S.C §103(a)**

Claims 12-14, 22-23, 26 and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Ellis et al.*, in view of *Knudson et al.* (US 6,536,041). Applicants' representative respectfully requests that this rejection be withdrawn for at least the following reasons. The cited references, either alone or in combination, fail to teach or suggest all limitations of the subject claims.

The subject claims respectively depend from independent claims 1, 15, 24 and 32. As discussed *supra*, *Ellis et al.* does not teach or suggest all limitations of these claims. *Knudson et al.* fails to compensate for the deficiencies of *Ellis et al.* *Knudson et al.* is directed towards a program guide system that allows real-time data such as game statistics, stock quotes and news to be stored and updated in a database maintained on a user's program guide platform. The reference accomplishes the updating of a program guide platform by generating a key for each item of real-time data to be used for updating the program guide platform. No teaching or suggestion is made by the reference of *the use of unique identifying tokens for programming of*

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*a recording system.* Furthermore, Knudson *et al.* does not disclose the claimed limitation of *a server programmed to provide at least one token to a remote computer based on received selection criteria.* Thus, the combination of Ellis *et al.* and Knudson *et al.* fails to make obvious the claimed invention. Accordingly, withdrawal of this rejection is requested.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP131US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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